

Appl. No. 10/669,910  
Amdt. Dated September 21, 2006  
Reply to Office Action of June 22, 2006

**...REMARKS/ ARGUMENTS...**

The Official Action of June 22, 2006 has been thoroughly studied. Accordingly, the changes presented herein for the application, considered together with the following remarks, are believed to be sufficient to place the application into condition for allowance.

By the present amendment claim 3 has been changed to correct the dependency and be dependent on claim 2.

This change to claim 3 is believed to be properly entered after Final inasmuch as it addresses and overcomes the outstanding rejection of claims 3-5 under 35 U.S.C. §112, second paragraph and only involves correcting an inadvertent typographical error.

Claim 10 has been changed to depend from claim 9, to thereby avoid the antecedent basis problems noted by the Examiner on page 2 of the Office Action.

This change to claim 10 is believed to be properly entered after Final inasmuch as it addresses and overcomes the outstanding objection of the claim.

Entry of the changes to the claims is respectfully requested.

Claims 1-10 are pending in this application.

On page 2 of the Office Action the Examiner objected to claim 10. Under this objection the Examiner stated that the phrase "said tape fastener" lack antecedent basis in the claims.

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In response to the objection to claim 10, claim 10 has been changed to depend upon claim 9 which provides antecedent basis for the phrase "said tape fastener."

Also on page 2 of the Office Action the Examiner has rejected claim 3-5 under 35 U.S.C. §112, second paragraph. Under this rejection the Examiner notes that it was not clear as to which claim claim 3 was to be dependent upon.

In response to this rejection, claim 3 has been amended to correct an inadvertent typographical error and to clearly depend from claim 2.

Claims 1, 3, 4, and 6-10 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,651,779 to Burrell.

Claims 1, 3, 5, 7, and 8 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,368,313 to Howard.

Claims 1-3 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,745,926 to Hlusko.

For the reasons set forth below it is submitted that all of the pending claims are allowable over the prior art of record and therefore, each of the outstanding rejections of the claims should properly be withdrawn.

Favorable reconsideration by the Examiner is earnestly solicited.

The Examiner has relied upon Burrell as disclosing:

...a disposable body fluid absorbent pad comprising a top surface facing a wearer's body, a back surface facing away from said wearer's body and a liquid-absorbent core interposed between said top and back surfaces and being contoured by longitudinally opposite end margins extending in a transverse direction and transversely opposite

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side edge margins extending in a longitudinal direction and being relatively large in said longitudinal direction (col. 6, lines 13-26), said disposable body fluid absorbent pad further comprising: said pad having a front region destined to cover a wearer's belly, a rear region destined to cover a wearer's hip and an intermediate region destined to cover a wearer's crotch when said pad is put on said wearer's body (figures 1 - 3), said pad including a strap adapted to pull said pad in said longitudinal direction and said strap having inner fixed portions lying on said side edge margins and secured to said pad on a surface facing said wearer's body and a hand-grip extending between said inner fixed portions as set forth in figure 5.

Applicants' independent claim 1 defines the longitudinally opposite end margin portions as defining peripheral longitudinal edge portions of the liquid-absorbent core and the transversely opposite side edge margin portions as defining peripheral transverse edge portions of the liquid-absorbent core.

In addition, independent claim 1 requires that the strap extends longitudinally outward from the front region and that inner fixed portions of the strap lie on and extend along a length of the side edge margin portions.

In Burrell, there are no straps that extend longitudinally outward from the front region of the panty liner that have inner fixed portions that extend along a length of the side edge margin portions of the panty liner.

Burrell teaches a plurality of straps 36 which outward along the periphery of the panty liner. At the opposite longitudinal ends there are straps that extend outward in Burrell; however, these straps do not have inner fixed portions that lie on and extend along a length of the side edge margin portions - which would correspond to the edge liner strips 42 of Burrell.

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Accordingly, Burrell does not anticipate applicants' invention as set forth in independent claim 1.

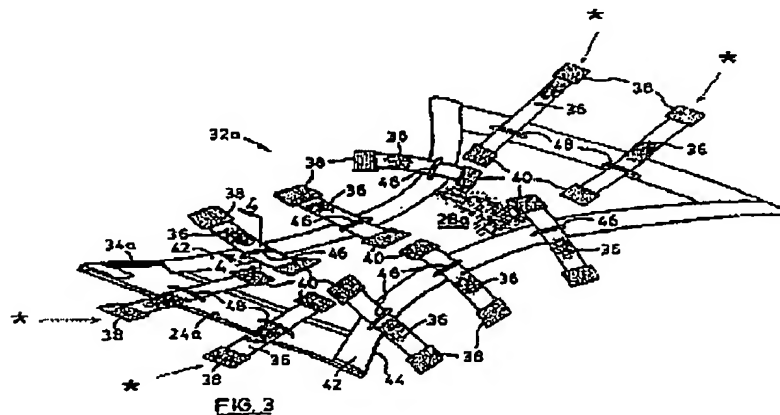
It is noted that the strap of the present invention is used to pull the body fluid absorbent pad as discussed in reference to Fig. 14. Accordingly, it can be appreciated how the structure of having the inner fixed portions of the strap lie on and extend along a length of the side edge margin portions is important.

The panty liner of Burrell does not require such pulling and therefore does not include or require a structure similar to that claimed by applicants.

In the *Response to Arguments* section of the Office Action the Examiner states that:

The applicant's arguments are not commensurate with the scope of the claims. The term "portions" is used throughout the claim in an attempt to refer to specific areas, however, the examiner contends that the term "portions" can include any of all parts of an area including those shown and referred to in the foregoing rejection of the claims using Burrell, Howard and Hlusko references.

Figure 3 of Burrell is reproduced as follows:



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In this Fig. 3, asterisks have been added to identify the only strap elements that could be considered as "extending longitudinally outward from the front region" of the panty liner (it being noted that Burrell has not identified which is the front and which is the rear region).

As the examiner will note, none of the identified strap elements have "inner fixed portions lying on and extending along a length of said side edge margin portions" of the panty liner.

In this regard, side margin edges at best are near the lining strips 41 which are significantly spaced apart from the strap elements 36 as shown.

The Examiner has relied upon Howard as disclosing:

... a disposable body fluid absorbent pad comprising a top surface facing a wearer's body (top outer surface of absorbent), a back surface facing away from said wearer's body and a liquid-absorbent core being contoured by longitudinally opposite end margins extending in a transverse direction and transversely opposite side edge margins extending in a longitudinal direction and being relatively large in said longitudinal direction (col. 5, lines 1 -10), said disposable body fluid absorbent pad further comprising: said pad having a front region destined to cover a wearer's belly, a rear region destined to cover a wearer's hip and an intermediate region destined to cover a wearer's crotch when said pad is put on said wearer's body (figure 1), said pad including a strap (60) adapted to pull said pad in said longitudinal direction and said strap having inner fixed portions lying on said side edge margins and secured to said pad on a surface facing said wearer's body and a handgrip extending between said inner fixed portions as set forth in figures 2 and 5-8.

Howard teaches a diaper for a dog.

The diaper of Howard does not even have side edge margin portions that extend in a longitudinal direction and define peripheral transverse edge portions of the liquid-absorbent core.



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The Examiner has relied upon Hlusko as disclosing:

... a disposable body fluid absorbent pad comprising a top surface facing a wearer's body and a back surface facing away from said wearer's body and being contoured by longitudinally opposite end margins extending in a transverse direction and transversely opposite side edge margins extending in a longitudinal direction and being relatively large in said longitudinal direction, said disposable body fluid absorbent pad further comprising: said pad having a front region destined to cover a wearer's belly, a rear region destined to cover a wearer's hip and an intermediate region destined to cover a wearer's crotch when said pad is put on said wearer's body (figure 4), said pad including a strap adapted to pull said pad in said longitudinal direction and said strap having inner fixed portions lying on said side edge margins and secured to said pad on a surface facing said wearer's body and a hand-grip extending between said inner fixed portions as set forth in figure 4.

The Examiner concedes that Hlusko "not explicitly teach a liquid absorbent core interposed between the top and back surface."

The Examiner takes the position that:

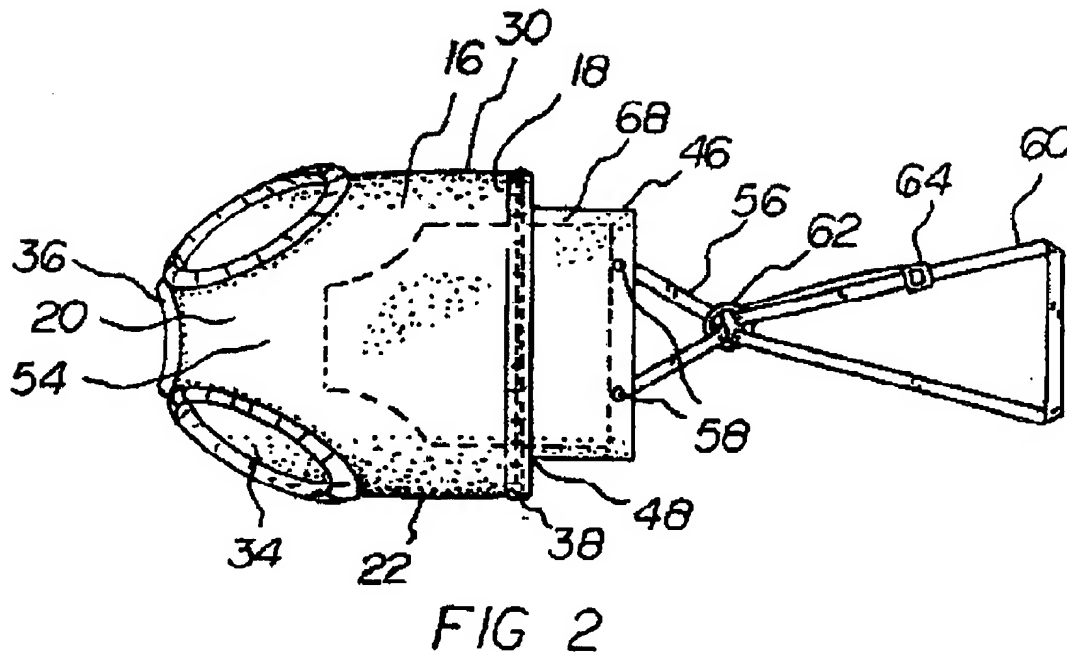
...it would be obvious to one of ordinary skill in the art to provide this modification because Hlusko teaches that the pad is patterned after a diaper with straps attached (col. 2, lines 40 - 42).

As shown in Figs. 3 and 4, the side arms 23 and 24 of the H-shaped strap of Hlusko do not extend along a length of the side edge margin portions of the diaper.

Rather, the ends of the side arms 23 and 24 of the H-shaped strap of Hlusko are fixed to central portions of the front waist area of the diaper and rear straps 3 and 4 can be attached to strips 31 and 32 on the central portion of the rear waist region.

Figure 2 of Howard is reproduced as follows:

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As the Examiner will note, the strap members 56 do not actually extend “longitudinally outward from the front region. Moreover, the strap members cannot be considered as “having inner fixed portions lying on and extending along a length of said side edge margin portions.”

Accordingly, Hlusko fails to anticipate applicants’ claimed invention.

The Examiner’s contention that:

...the term “portions” can include any of all parts of an area including those shown and referred to in the foregoing rejection of the claims using Burrell, Howard and Hlusko references

overlooks the fact that applicants do not merely recite “portions,” but rather “transversely opposite side edge margin portions.”



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While an Examiner is allowed to broadly interpret claim limitation, the MPEP2111 states that pending claims must be "given the broadest reasonable interpretation consistent with the specification."

Applicants' side edge margin portions are identified by reference numeral 8 in the figures.

The Examiner will note that none of Burrell and Howard, Hlusko can be reasonable interpreted as having "side edge margin portions" which are consistent with applicants' disclosure or which read on applicants' claimed invention.

Moreover, none of none of Burrell and Howard, Hlusko teach strap members that extend longitudinally outward from the front region, which strap members have "inner fixed portions lying on and extending along a length of said side edge margin portions."

Based upon the above distinctions between the prior art relied upon by the Examiner and the present invention, and the overall teachings of prior art, properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon the prior art as required under 35 U.S.C. §102 as anticipating applicants' claimed invention.

Moreover, it is submitted that the Examiner cannot rely upon the prior art as required under 35 U.S.C. §103 to establish a prima facie case of obviousness of applicants' claimed invention.

It is, therefore, submitted that any reliance upon prior art would be improper inasmuch as the prior art does not remotely anticipate, teach, suggest or render obvious the present invention.

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It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of the prior art and the outstanding rejection of the claims should hence be withdrawn.


Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

If upon consideration of the above, the Examiner should feel that there remain outstanding issues in the present application that could be resolved; the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,

  
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